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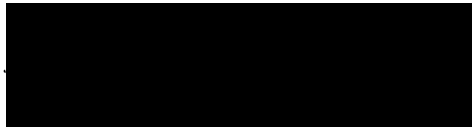


U.S. Citizenship
and Immigration
Services



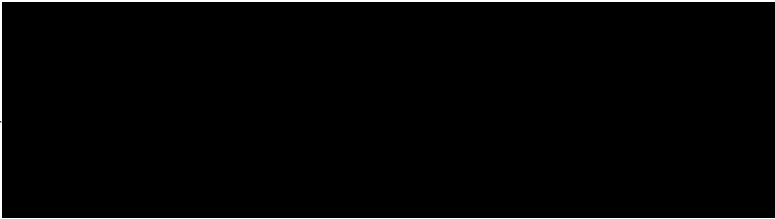
FILE: WAC 02 089 50029 Office: CALIFORNIA SERVICE CENTER Date: FEB 10 2004

IN RE: Petitioner:
Beneficiary:



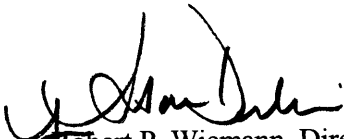
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the
Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.


Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Director of the California Service Center denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A).

The petitioner is a non-profit management corporation that manages several group-home residential facilities for abused and neglected children referred by the Department of Children's Services of the State of California. It seeks to employ the beneficiary as a residence manager for a period of three years. The petitioner endeavors to classify the beneficiary as a nonimmigrant worker in a specialty occupation pursuant to section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101 (a)(15)(H)(i)(b). The director denied the petition on the basis that the proffered position did not meet the definition of a specialty occupation.

The record does not establish that the petitioner authorized counsel to file an appeal on its behalf.

The record contains two Form G-28's, Entry of Appearance as Attorney or Representative, that clearly authorized representation by a specific attorney from Palm Springs, California. These forms were signed by the petitioner's executive director on August 31, 2001 and December 19, 2001, dates which preceded the January 16, 2002 filing of the petitioner's Form I-129. The record also contains one Form G-28 that was signed by [REDACTED] on July 15, 2002, a date that is contemporaneous with the filing of the appeal on July 17, 2002. The record does not indicate that [REDACTED] is an authorized representative of the petitioner. On the contrary, the Form I-129 indicates that counsel represents [REDACTED] & [REDACTED] [the beneficiary]" as clients separate from the petitioner. Furthermore, while the brief's introductory paragraph states that counsel is submitting the brief on behalf of the petitioner, the signature block at the end of the brief suggests that counsel is submitting it on behalf of the beneficiary: her name alone appears under "Respectfully submitted," and counsel signed on a "by" line under the beneficiary's name to indicate counsel's authority to sign for the beneficiary. In contrast, the name of petitioner or of any of its officers or employees does not appear in the signature block.

Also, the Form G-28 that was filed with the appeal, and bears no signature of the petitioner, was submitted by an attorney from an Illinois law firm. However, the record does not contain any independent documentation that the petitioner had transferred its legal representation from the California counsel to the Illinois law firm.

As demonstrated above, the record establishes only that the beneficiary has authorized counsel to submit the appeal. Accordingly, the AAO will consider the appeal as submitted by an attorney acting on behalf of the beneficiary alone.

Citizenship and Immigration Services regulations state that a beneficiary of a visa petition has no legal standing in an appeal, and specifically prohibit a beneficiary, or a representative acting on a beneficiary's behalf, from filing an appeal. 8 C.F.R. § 103.3(a)(1)(iii)(B). As the appeal was not properly filed, it will be rejected. 8 C.F.R. § 103.3(a)(2)(v)(A)(1).

ORDER: The appeal is rejected as improperly filed.